



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

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## Memorandum

### Agenda Changes/Supplemental Packet

TO: MAYOR ZAK AND HOMER CITY COUNCIL  
FROM: MELISSA JACOBSEN, MMC, CITY CLERK  
DATE: JUNE 26, 2017  
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

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#### **WORKSESSION and PENDING BUSINESS**

**Ordinance 17-07(S-2)**, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code 21.93.060, 21.93.070, 21.93.080, 21.93.100, 21.93.110, 21.93.500, 21.93.540, 21.93.550, 21.93.560, 21.93.570, 21.93.700, 21.93.710 to Offer Appellants the Choice Between an Appeal Before the Board of Adjustment or a Hearing Officer in Appeals of Planning Commission Decisions.

Memorandum 17-101, from City Manager Re: Analysis of versions of Ordinance 17-07. Page 3

#### **CONSENT AGENDA**

**Resolution 17-067**, A Resolution of the City Council of Homer, Alaska, Authorizing the City to Submit a Land and Water Conservation Fund Grant Application to the State of Alaska for the Replacement of Ramp 2 Restroom in an Amount up to \$125,000 and Expressing its Commitment to Provide a Local Match to Grant Funds. City Manager.

Concept Cost information as back up. Page 5

#### **CITY MANAGER'S REPORT**

Written Public Comments Page 7

#### **NEW BUSINESS**

**Memorandum 17-096**, from City Clerk Re: Roadway easement vacation along the western boundary of Lot 12-A-1, DeGarmo Sub. No. 2.

Aerial View map depicting area to be vacated as back up. Page 9





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## Memorandum 17-101

TO: Mayor Zak and Homer City Council  
FROM: Katie Koester, City Manager  
THROUGH: Holly Wells, City Attorney  
DATE: June 23, 2017  
SUBJECT: Analysis of versions of Ordinance 17-07

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The Purpose of this memo is to provide Council with an analysis of the differences between the Original version, Ordinance 17-07 and the substitute before you, Ordinance 17-07(S3).

### **Ordinance 17-07 (Original introduced January 23, 2017)**

In general, the only hearing officer that must meet certain experience requirements is the hearing officer retained to hear appeals of Planning Commission decisions under Title 21 of the Homer City Code. The reason for these heightened requirements is the generally heightened level of due process afforded appellants in land use matters. In appointing hearing officers in all other administrative hearings, the appointee (generally the City Manager or the Clerk) has discretion to determine who would be an appropriate officer. In some cases, the appropriate officer may be a City employee or official, in others it will be more appropriate to hire an outside hearing officer. Generally, this decision will turn upon the complexity of the matter, the potential liability stemming from the proceeding, and the City's financial and human resources. A policy regarding hearing officers should be developed so the City is consistent.

1. The clerk may (but is not required to) appoint a hearing officer to hear challenges to candidate qualifications challenges.
2. Instead of Council hearing an appeal of the Police Chief's denial of an itinerant/transient merchant license, the City Manager now appoints a hearing officer to do so.
3. Revises the Code to have the City Manager *or designee* hear wastewater and sewer disputes. While the City Manager may still make such decisions, the changes allow for the use of a hearing officer.
4. Instead of a Board consisting of the City Manager, Police Chief, and a Council member, the City Manager appoints a hearing officer to determine animal destruction cases.
5. A hearing officer with the required expertise and experience (5 years administrative law judge or hearing officer and licensed to practice law)

### **Ordinance 17-07(S3)**

1. Eliminates all reference to a hearing officer added to code in the original version except with regard to appeals to Planning Commission decisions. This means in the following instances there is not the option to appoint a hearing officer:
  1. The City Clerk determines challenges to questions regarding a candidate's qualifications.
  2. The Council hears challenges to a denial of an itinerant merchant permit by the Police Chief.
  3. The City Manager hears all water and wastewater disputes.
  4. A Board consisting of the City Manager, Police Chief, and a Councilmember hear animal destruction cases
2. Ordinance 17-07 allows an appellant, excluding a representative of the City, to choose in the notice of appeal, to have their appeal heard by the Board of Adjustment instead of a Hearing officer. If no choice is made, the default is a hearing officer. The hearing officer still has to meet the experience and qualification requirements outlined in the original version.

### **Both Versions of Ordinance 17-07**

1. Require a Hearing Officer appointed to hear Planning Commission appeals have 5 years experience as a hearing officer or administrative law judge and be licensed to practice law in the State of Alaska. Generally, the 5-year experience requirement will require the City to hire outside counsel, a hearing officer from the Office of Administrative hearings, or use the City Attorney in land use appeals.
2. Add requirements for a hearing officer to disclose financial interests, personal bias or ex-parte communication. Adds provisions for a party to object to the appointment of a particular hearing officer based on these items.
3. A decision made by a hearing officer or the Board of Adjustment is appealable to the Superior Court.
4. It is worth noting that the City's pre-existing hearing officer processes have not been disturbed. This includes the City Manager's authority to appoint a hearing officer to hear vehicle and vessel impoundment disputes under HCC 7.10.080 and HCC 10.04.130 respectively. It also does not disturb the use of an "Appeals Board" in Chapter 5.18 for disputes regarding public nuisances. The reason the "Appeals Board" was not revised because the definition of "Appeals Board" permits a hearing officer to be appointed to sit as the "Appeals Board."

**Homer Ramp 2 Restroom Replacement**  
**conceptual estimate**  
6/8/2017

Stick-build new/ same configuration	Concrete block new/ same configuration	Concrete block new/ 12 individual stalls
Option A	Option B	Option C

Design	\$55,000	\$50,000	\$45,000
Demolition	\$12,000	\$12,000	\$25,000
Construction	\$475,020	\$638,820	\$671,580
Inspection	\$13,000	\$15,000	\$16,000
Project Management	\$6,000	\$8,000	\$9,000
Contingency (5%)	\$27,500	\$35,000	\$40,000
1% for Art	\$4,750	\$6,388	\$6,716

Total Project Cost	\$593,270	\$765,208	\$813,296
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Total Cost Per SF	\$543	\$701	\$745
Construction Cost Per SF	\$435	\$585	\$615

Assumptions:

Option A - utilities reusable, foundation reusable, 50% slab removal/replacement needed, stick built, concrete siding exterior, FRP interior, shingle roof	<u>Women's</u> : HC toilet - 1; std toilet - 5; sinks - 4 <u>Men's</u> : HC toilet - 1; std toilet - 4; urinal - 4; sinks - 4
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Option B - utilities reusable, foundation reusable, 50% slab removal/replacement needed, concrete block construction, shingle roof	<u>Women's</u> : HC toilet - 1; std toilet - 5; sinks - 4 <u>Men's</u> : HC toilet - 1; std toilet - 4; urinal - 4; sinks - 4
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Option c - utilities reusable, foundation reusable, complete slab removal/replacement needed, concrete block construction, metal roof	Toilets - 12 (all HC), 12 sinks
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**From:** Barbara Howard  
**To:** [Melissa Jacobsen](#)  
**Subject:** Citizens Academy  
**Date:** Monday, June 26, 2017 8:47:19 AM

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Honorable Mayor and Council Members:

I am urging you to indicate your approval to the city manager supporting a “citizens academy” in February, 2018. \$4,000.00 funding would be adequate for the refreshments and supplies needed. That money is well spent. A very high return on your investment; the citizens of the city. This successful education and training program is a well established fact in many cities across our country. The participants become well informed of the “daily ins and outs” of their government. These folks become advocates for future issues because they are well informed spokespersons.

There is another benefit to this program. As each department prepares for their presentation it is the perfect time to revisit their purpose and role they play in carrying out the directions of the city council and city manager. This is a time to reflect on “why they are on the payroll”. In addition, the perfect time to review forms and policies to ask themselves how would they rate the effectiveness and efficiency of the policies and procedures and forms they use to conduct their department business. Finally, it is a time for the departments to be proud of their work and workers. A win-win for everyone. What a bargain for \$4,00.00.

Thank you for considering this request, and thank you for all the hard work you do on my behalf as a citizen of HOMER.

Barbara Howard





DeGarmo Roadway Easement Vacation



Aerial View

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

